

**THE CITY OF NEW YORK  
LAW DEPARTMENT**

MURIEL GOODE-TRUFANT  
*Acting Corporation Counsel*

100 CHURCH STREET  
NEW YORK, NY 10007

ZACHARY T. ELLIS  
*Assistant Corporation Counsel*  
Labor and Employment Law Division  
(212) 356-0839  
zellis@law.nyc.gov

July 5, 2024

**Via CM/ECF**

Honorable Dale E. Ho  
United States District Judge  
Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Foley Square, Courtroom 905  
New York, New York 10007

Plaintiffs shall file a response to this letter by no later than  
**July 10, 2024.**

SO ORDERED.

Dale E. Ho  
United States District Judge  
New York, New York  
Dated: July 8, 2024

Re: *Biggs, et al. v. MetroPlus Health Plan, Inc., et al.*  
Case No. 1:22-CV-10939-DEH  
Law Dep't File No. 2023-000330

Dear Judge Ho:

I am an Assistant Corporation Counsel in the Office of Muriel Goode-Trufant, Acting Corporation Counsel of the City of New York, representing Defendants, MetroPlus Health Plan, Inc., and Simran Kaur (collectively, “Defendants”), in the above-referenced action. I write to respectfully request that Plaintiffs, Letitia Biggs, Jamella Washington, and Judy Wilson (collectively, “Plaintiffs”), be compelled to provide responses to Defendants’ First Set of Discovery Demands and to serve their Initial Disclosures upon Defendants. In addition, given the circumstances and obstacles encountered during the discovery process, Defendants respectfully seek an extension of the deadline for fact discovery from May 24, 2024, to September 24, 2024. The parties are next scheduled to appear before the Court for a post-discovery telephone conference on July 25, 2024, at 10:30 a.m.

On March 12, 2024, Defendants served Plaintiffs with both their Initial Disclosures and their First Set of Discovery Demands, consisting of twenty-five (25) interrogatories and thirty-eight (38) document requests. A copy of the e-mail serving these discovery demands upon Plaintiffs’ counsel of record, Arthur Z. Schwartz, is attached hereto as Exhibit “A,” and a copy of Defendants’ First Set of Discovery Demands is attached hereto as Exhibit “B.”

To date, Plaintiffs have not responded to Defendants’ First Set of Discovery Demands, nor have they served Defendants with their Initial Disclosures.

The parties attended a first mediation session on June 11, 2024, at the end of which undersigned counsel raised these deficiencies with Mr. Schwartz, who agreed to produce the missing disclosures and responses. Then, on June 12, 2024, undersigned counsel e-mailed Mr. Schwartz as follows:

Plaintiffs' responses to the below Frist [sic] Set of Discovery Demands were due by February 26, 2024, yet, to date, Defendants have not received any such responses. Additionally, Plaintiffs did not serve Initial Disclosures, which were due by February 8, 2024. Defendants intend to depose all three Plaintiffs, but we need discovery responses before we can do so.

....

Per the Scheduling Order, depositions were to be completed by May 24, which is also when fact discovery closed. Expert discovery closes on July 8, [and] a post-discovery telephone conference is scheduled for July 25, 2024, at 10:30 a.m. We will, therefore, need to write to the Court by the end of the week to request an extension of these deadlines. To that end, can you please advise to how long you think it will take for Plaintiffs to serve Defendants with Initial Disclosures and responses to their First Set of Discovery Demands?

Not having received a response to this e-mail, undersigned counsel sent Mr. Schwartz the following e-mail on June 22, 2024:

I am following up on the below e-mail. I must write to the Court by the end of the day on Monday, June 24, to seek an extension of the fact-discovery deadline.

It would be helpful if, in advance thereof, you could tell me by when you will serve me with Plaintiff's Initial Disclosures and responses to Defendants' First Set of Discovery Demands, so that I may include such information in my letter to the Court. I think that, under the circumstances, we should seek an extension of the fact-discovery deadline to September 24. What is Plaintiff's position on such a request?

Not having received a response to this e-mail either, undersigned counsel sent Mr. Schwartz the following e-mail on July 4, 2024:

I am following up on the below e-mail to advise that, with a post-discovery conference scheduled for July 25, I can no longer hold off on filing the below-referenced letter. By close of business tomorrow (7/5), I intend to file a motion to both extend the fact-discovery deadline until the beginning of October and to compel production of Plaintiffs' Initial Disclosures and responses to Defendants' First Set of Discovery Demands. I am available all day tomorrow (beginning at 10:00 a.m.) for a meet and confer. Please advise of your respective availability. Thank you.

A copy of this correspondence is attached hereto as Exhibit "C."

To date, Plaintiffs have not responded to any of the above-excerpted e-mails, served their Initial Disclosures, or responded, much less produced responsive documents, to Defendants' First Set of Discovery Demands.

Accordingly, Defendants respectfully request that Plaintiffs be compelled to provide full and complete responses to Defendants' First Set of Discovery Demands and to serve their Initial Disclosures upon Defendants.

In addition, given the circumstances and obstacles encountered during the discovery process, Defendants respectfully seek an extension of the deadline for fact discovery from May 24, 2024, to September 24, 2024. This extension of time is necessary because not only will Plaintiffs presumably need time to serve Defendants with their Initial Disclosures and to produce full and complete responses to Defendants' First Set of Discovery Demands, but Defendants will need time to execute Plaintiffs' HIPAA releases and then to depose all three of them.

I thank the Court for its consideration of these requests.

Respectfully submitted,

/s/  
ZACHARY T. ELLIS  
Assistant Corporation Counsel

cc: Arthur Z. Schwartz (via ECF)  
Advocates for Justice  
*Counsel for Plaintiffs*  
225 Broadway, Suite 1902  
New York, New York 10007  
(212) 285-1400  
aschwartz@advocatesny.com